

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Appropriations, to which was referred House Bill No. 1008, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 4-4-10.9-1.2, AS ADDED BY P.L.235-2005,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that
- 5 grant a power to or impose a duty on the authority, including but not
- 6 limited to IC 4-4-11, **IC 4-4-11.4**, IC 4-4-21, IC 4-13.5, IC 8-1-33,
- 7 IC 8-9.5, IC 8-14.5, IC 8-15, **IC 8-15.5**, IC 8-16, IC 13-18-13,
- 8 IC 13-18-21, IC 13-19-5, IC 14-14, and IC 15-7-5.
- 9 SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.235-2005,
- 10 SECTION 61, IS AMENDED TO READ AS FOLLOWS
- 11 [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies
- 12 to a rulemaking action resulting in any of the following rules:
- 13 (1) An order adopted by the commissioner of the Indiana
- 14 department of transportation under IC 9-20-1-3(d) or
- 15 IC 9-21-4-7(a) and designated by the commissioner as an
- 16 emergency rule.
- 17 (2) An action taken by the director of the department of natural
- 18 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- 19 (3) An emergency temporary standard adopted by the occupational
- 20 safety standards commission under IC 22-8-1.1-16.1.

- 1 (4) An emergency rule adopted by the solid waste management
- 2 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 3 (5) A rule, other than a rule described in subdivision (6), adopted
- 4 by the department of financial institutions under IC 24-4.5-6-107
- 5 and declared necessary to meet an emergency.
- 6 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 7 department of financial institutions and declared necessary to meet
- 8 an emergency under IC 24-4.5-6-107.
- 9 (7) A rule adopted by the Indiana utility regulatory commission to
- 10 address an emergency under IC 8-1-2-113.
- 11 (8) An emergency rule adopted by the state lottery commission
- 12 under IC 4-30-3-9.
- 13 (9) A rule adopted under IC 16-19-3-5 that the executive board of
- 14 the state department of health declares is necessary to meet an
- 15 emergency.
- 16 (10) An emergency rule adopted by the Indiana ~~transportation~~
- 17 finance authority under IC 8-21-12.
- 18 (11) An emergency rule adopted by the insurance commissioner
- 19 under IC 27-1-23-7.
- 20 (12) An emergency rule adopted by the Indiana horse racing
- 21 commission under IC 4-31-3-9.
- 22 (13) An emergency rule adopted by the air pollution control board,
- 23 the solid waste management board, or the water pollution control
- 24 board under IC 13-15-4-10(4) or to comply with a deadline
- 25 required by federal law, provided:
- 26 (A) the variance procedures are included in the rules; and
- 27 (B) permits or licenses granted during the period the emergency
- 28 rule is in effect are reviewed after the emergency rule expires.
- 29 (14) An emergency rule adopted by the Indiana election
- 30 commission under IC 3-6-4.1-14.
- 31 (15) An emergency rule adopted by the department of natural
- 32 resources under IC 14-10-2-5.
- 33 (16) An emergency rule adopted by the Indiana gaming
- 34 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 35 (17) An emergency rule adopted by the alcohol and tobacco
- 36 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
- 37 IC 7.1-3-20-24.4.

- 1 (18) An emergency rule adopted by the department of financial
- 2 institutions under IC 28-15-11.
- 3 (19) An emergency rule adopted by the office of the secretary of
- 4 family and social services under IC 12-8-1-12.
- 5 (20) An emergency rule adopted by the office of the children's
- 6 health insurance program under IC 12-17.6-2-11.
- 7 (21) An emergency rule adopted by the office of Medicaid policy
- 8 and planning under IC 12-15-41-15.
- 9 (22) An emergency rule adopted by the Indiana state board of
- 10 animal health under IC 15-2.1-18-21.
- 11 (23) An emergency rule adopted by the board of directors of the
- 12 Indiana education savings authority under IC 21-9-4-7.
- 13 (24) An emergency rule adopted by the Indiana board of tax
- 14 review under IC 6-1.1-4-34.
- 15 (25) An emergency rule adopted by the department of local
- 16 government finance under IC 6-1.1-4-33.
- 17 (26) An emergency rule adopted by the boiler and pressure vessel
- 18 rules board under IC 22-13-2-8(c).
- 19 (27) An emergency rule adopted by the Indiana board of tax
- 20 review under IC 6-1.1-4-37(l) or an emergency rule adopted by the
- 21 department of local government finance under IC 6-1.1-4-36(j) or
- 22 IC 6-1.1-22.5-20.
- 23 (28) An emergency rule adopted by the board of the Indiana
- 24 economic development corporation under IC 5-28-5-8.
- 25 (29) A rule adopted by the department of financial institutions
- 26 under IC 34-55-10-2.5.
- 27 **(30) A rule adopted by the Indiana finance authority:**
- 28 **(A) under IC 8-15.5-7 approving user fees (as defined in**
- 29 **IC 8-15.5-2-10) provided for in a public-private agreement**
- 30 **under IC 8-15.5;**
- 31 **(B) under IC 8-15-2-17.2(a)(10):**
- 32 **(i) establishing enforcement procedures; and**
- 33 **(ii) making assessments for failure to pay required tolls;**
- 34 **or**
- 35 **(C) to make other changes to existing rules related to a toll**
- 36 **road project to accommodate the provisions of a**
- 37 **public-private agreement under IC 8-15.5.**

1 (b) The following do not apply to rules described in subsection (a):

2 (1) Sections 24 through 36 of this chapter.

3 (2) IC 13-14-9.

4 (c) After a rule described in subsection (a) has been adopted by the
5 agency, the agency shall submit the rule to the publisher for the
6 assignment of a document control number. The agency shall submit the
7 rule in the form required by section 20 of this chapter and with the
8 documents required by section 21 of this chapter. The publisher shall
9 determine the number of copies of the rule and other documents to be
10 submitted under this subsection.

11 (d) After the document control number has been assigned, the agency
12 shall submit the rule to the secretary of state for filing. The agency shall
13 submit the rule in the form required by section 20 of this chapter and
14 with the documents required by section 21 of this chapter. The secretary
15 of state shall determine the number of copies of the rule and other
16 documents to be submitted under this subsection.

17 (e) Subject to section 39 of this chapter, the secretary of state shall:

18 (1) accept the rule for filing; and

19 (2) file stamp and indicate the date and time that the rule is
20 accepted on every duplicate original copy submitted.

21 (f) A rule described in subsection (a) takes effect on the latest of the
22 following dates:

23 (1) The effective date of the statute delegating authority to the
24 agency to adopt the rule.

25 (2) The date and time that the rule is accepted for filing under
26 subsection (e).

27 (3) The effective date stated by the adopting agency in the rule.

28 (4) The date of compliance with every requirement established by
29 law as a prerequisite to the adoption or effectiveness of the rule.

30 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
31 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
32 subsections (j), ~~and~~ (k), **and (l)**, a rule adopted under this section
33 expires not later than ninety (90) days after the rule is accepted for
34 filing under subsection (e). Except for a rule adopted under subsection
35 (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by
36 adopting another rule under this section, but only for one (1) extension
37 period. The extension period for a rule adopted under subsection (a)(28)

may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

SECTION 3. IC 5-10.3-6-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 31, 2005 (RETROACTIVE)]: **Sec. 8.7. (a)**

This section applies when certain employees of the state, in particular departmental, occupational, or other definable classifications, are terminated from employment with the state as a result of:

(1) a lease, or other transfer, of state property or property of a body corporate and politic to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as

1 described in subsection (a).

2 (c) The board must approve a request from the governor under
3 subsection (b) unless approval violates subsection (i), federal or
4 state law, or the terms of the fund.

5 (d) As used in this section, "early retirement" means a member
6 is eligible to retire with a reduced pension under IC 5-10.2-4-1,
7 because the member:

8 (1) is at least fifty (50) years of age; and

9 (2) has at least fifteen (15) years of creditable service.

10 (e) As used in this section, "normal retirement" means a
11 member is eligible to retire under IC 5-10.2-4-1, because:

12 (1) the member is at least sixty-five (65) years of age and has
13 at least ten (10) years of creditable service;

14 (2) the member is at least sixty (60) years of age and has at
15 least fifteen (15) years of creditable service; or

16 (3) the member's age in years plus the member's years of
17 service is at least eighty-five (85) and the member is at least
18 fifty-five (55) years of age.

19 (f) The withdrawal of the employees described in subsection (a)
20 from the fund is effective on a termination date established by the
21 board. The board may not establish a termination date that occurs
22 before all of the following have occurred:

23 (1) The governor has requested coverage under this section
24 and provided written notice of the following to the board:

25 (A) The intent of the state to terminate the employees from
26 employment.

27 (B) The names of the terminated employees as of the date
28 that the termination is to occur.

29 (2) The expiration of a thirty (30) day period following the
30 filing of the notice with the board.

31 (3) The state complies with subsection (g).

32 (g) A member who is covered by subsection (f) and who, as of
33 the date of the notice under subsection (f), is less than twenty-four
34 (24) months from being eligible for normal or early retirement
35 under IC 5-10.2-4-1 may elect to retire by purchasing the service
36 credit needed for retirement under the following conditions:

37 (1) The state shall contribute to the fund an amount

determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (h) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(h) The amounts that the state is required to contribute to the fund under subsection (g) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (g).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (g), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (g) in the next biennial state budget.

(i) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission

1 to withdraw if the denial is necessary to achieve compliance with
 2 Section 401(a) of the Internal Revenue Code of 1954, as in effect on
 3 September 1, 1974.

4 SECTION 4. IC 6-3-3-11 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2006]: Sec. 11. (a) An individual is entitled to a credit
 7 under this section against the adjusted gross income tax imposed
 8 by IC 6-3-1 through IC 6-3-7 for each taxable year ending before
 9 January 1, 2017. The amount of the credit is equal to the lesser of:

10 (1) one-half (1/2) of the amount of the tolls paid by the
 11 individual after June 30, 2006, and during the taxable year to
 12 drive a vehicle with two (2) axles, including a motorcycle, on
 13 the Indiana toll road for a nonbusiness purpose; or

14 (2) three hundred dollars (\$300).

15 (b) Notwithstanding subsection (a), a husband and wife filing a
 16 joint adjusted gross income tax return for a particular taxable year
 17 may not claim a credit of more than three hundred dollars (\$300)
 18 under this section.

19 (c) If a credit claimed under this section exceeds an individual's
 20 total tax liability incurred under the adjusted gross income tax
 21 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 22 reduced by the sum of all credits (as determined without regard to
 23 this section) allowed by IC 6-3-1 through IC 6-3-7, the excess shall
 24 be refunded to the individual.

25 (d) To receive the credit provided by this section, an individual
 26 must claim the credit in the manner prescribed by the department.
 27 The individual shall submit to the department all information that
 28 the department determines is necessary for the calculation of the
 29 credit provided by this section .

30 SECTION 5. IC 8-14-14 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]:

33 **Chapter 14. Major Moves Construction Fund**

34 **Sec. 1.** As used in this chapter, "authority" refers to the Indiana
 35 finance authority established by IC 4-4-11-4.

36 **Sec. 2.** As used in this chapter, "department" refers to the
 37 Indiana department of transportation.

1 **Sec. 3.** As used in this chapter, "fund" refers to the major moves
2 construction fund established by section 5 of this chapter.

3 **Sec. 4.** As used in this chapter, "transportation plan" refers to
4 the department's long range comprehensive transportation plan
5 developed under IC 8-23-2-5.

6 **Sec. 5. (a)** The major moves construction fund is established for
7 the purpose of:

8 (1) funding projects in the department's transportation plan;
9 and

10 (2) funding distributions under sections 6 and 7 of this
11 chapter.

12 **(b)** The fund shall be administered by the department.

13 **(c)** The treasurer of state shall invest the money in the fund not
14 currently needed to meet the obligations of the fund in the same
15 manner as other public funds may be invested. Interest that
16 accrues from these investments shall be deposited in the fund.

17 **(d)** The fund consists of the following:

18 (1) Distributions to the fund from the toll road fund under
19 IC 8-15.5-11.

20 (2) Distributions to the fund from the next generation trust
21 fund under IC 8-14-15.

22 (3) Appropriations to the fund.

23 (4) Gifts, grants, loans, bond proceeds, and other money
24 received for deposit in the fund.

25 (5) Revenues arising from:

26 (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

27 (B) a toll road under IC 8-15-2 or IC 8-23-7-23;

28 that the department designates as part of, and deposits in, the
29 fund.

30 (6) Interest, premiums, or other earnings on the fund.

31 **(e)** The fund is considered a trust fund for purposes of
32 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise
33 removed from the fund by the state board of finance, the budget
34 agency, or any other state agency.

35 **(f)** Money in the fund at the end of a state fiscal year does not
36 revert to the state general fund.

37 **(g)** Money in the fund must be appropriated by the general

1 assembly to be available for expenditure.

2 Sec. 6. (a) If the authority enters into a public-private
3 agreement concerning the Indiana Toll Road under IC 8-15.5, the
4 department shall make the following distributions from the fund
5 for the indicated purposes:

6 (1) Seventy-five million dollars (\$75,000,000) during each
7 state fiscal year beginning July 1, 2006, and July 1, 2007, to
8 the treasurer of state for deposit in the motor vehicle highway
9 account established by IC 8-14-1. Notwithstanding IC 8-14-1,
10 the auditor of state shall make quarterly distributions of the
11 amounts deposited in the motor vehicle highway account
12 under this subdivision to each of the counties, cities, and
13 towns eligible to receive a distribution from the motor vehicle
14 highway account under IC 8-14-1 and in the same proportion
15 among the counties, cities, and towns as funds are distributed
16 from the motor vehicle highway account under IC 8-14-1.
17 Money distributed under this subdivision may be used only
18 for purposes that money distributed from the motor vehicle
19 highway account may be expended under IC 8-14-1.

20 (2) Twenty million dollars (\$20,000,000) to the northwest
21 Indiana regional development authority during the state fiscal
22 year beginning July 1, 2006, for deposit in the development
23 authority fund established under IC 36-7.5-4-1. However, no
24 distributions may be made under this subdivision until the
25 development authority's comprehensive strategic
26 development plan has been reviewed by the budget committee
27 and approved by the director of the office of management and
28 budget.

29 (3) The following amounts during the state fiscal year
30 beginning July 1, 2006, to each county that establishes a local
31 major moves construction fund under IC 8-14-16:

32 (A) Thirty million dollars (\$30,000,000) to each county
33 described in IC 8-14-16-1(1) through IC 8-14-16-1(5).

34 (B) Twenty-five million dollars (\$25,000,000) to each
35 county described in IC 8-14-16-1(6).

36 (C) Fifteen million dollars (\$15,000,000) to each county
37 described in IC 8-14-16-1(7).

(4) One hundred seventy-nine million dollars (\$179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department:

(A) for preliminary engineering, purchase of rights of way, or construction of highways, roads, and bridges; and

(B) to study the feasibility of the use of creative financing methods, including the use of public-private agreements, tolls, and debt financing to build road and bridge projects.

After review by the budget committee, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient during each state fiscal year beginning after June 30, 2006, as determined by the budget agency, to reimburse the state general fund for the loss of revenue during the preceding state fiscal year attributable to tax credits claimed under IC 6-3-3-11.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.7 as a result of a public-private agreement.

(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

Sec. 7. In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2 or IC 8-15.5 in connection with the execution and performance of a public-private agreement under IC 8-15.5, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

Sec. 8. The total amount of distributions from the fund under sections 6 and 7 of this chapter for projects or purposes that benefit a county traversed by the Indiana Toll Road may not be less than thirty-four percent (34%) of the money received by the

1 authority under a public-private agreement concerning the Indiana
 2 Toll Road entered into under IC 8-15.5. The budget agency shall
 3 determine the amount of distributions required by this section. In
 4 making the determination, the budget agency shall include the
 5 following amounts:

6 (1) Amounts distributed to counties traversed by the Indiana
 7 Toll Road under section 6(a)(1) of this chapter.

8 (2) Money distributed to the northwest Indiana regional
 9 development authority under this chapter.

10 (3) Money distributed under section 6(a)(3) of this chapter.

11 (4) Projects carried out by the department in counties
 12 traversed by the Indiana Toll Road and funded with money
 13 distributed under section 6(a)(4) of this chapter.

14 (5) Reimbursements paid to the state general fund under
 15 section 6(a)(5) of this chapter.

16 (6) Payments to the public employees' retirement fund
 17 required by section 6(a)(6) of this chapter.

18 Sec. 9. The northwest Indiana regional development authority
 19 may submit requests to the budget agency for additional
 20 appropriations to be made from the fund for state fiscal years
 21 beginning after June 30, 2007.

22 SECTION 6. IC 8-14-15 IS ADDED TO THE INDIANA CODE
 23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]:

25 **Chapter 15. Next Generation Trust Fund**

26 Sec. 1. As used in this chapter, "authority" refers to the Indiana
 27 finance authority.

28 Sec. 2. As used in this chapter, "trust" refers to the next
 29 generation trust fund established under this chapter.

30 Sec. 3. As used in this chapter, "trustee" refers to the trustee of
 31 the trust designated under section 7 of this chapter.

32 Sec. 4. (a) The authority shall establish a next generation trust
 33 fund to hold title to proceeds transferred to the trust under
 34 IC 8-15.5-11 for the benefit of the people of Indiana and the users
 35 of highways, streets, roads, and other related transportation
 36 facilities.

37 (b) The trust shall be established as a charitable trust, separate

1 from the state, but for a benevolent public purpose.

2 (c) The trust consists of the proceeds transferred to the trust
3 under IC 8-15.5-11 and any income that accrues from the
4 investment of these proceeds.

5 Sec. 5. The chairman of the authority shall enter into a trust
6 agreement on behalf of the authority with the treasurer of state in
7 conformity with IC 30-4-2-1. Any provision of the trust agreement
8 entered into under this section that is inconsistent with the
9 provisions or intent of this chapter are void and of no further force
10 or effect.

11 Sec. 6. A trust established under this chapter must be an
12 irrevocable trust and may not be revoked or terminated by the
13 authority or any other person, nor may it be amended or altered
14 by the authority or any other person.

15 Sec. 7. The treasurer of state shall act as the trustee of the trust.

16 Sec. 8. (a) The trustee shall:

- 17 (1) administer and manage the trust;
- 18 (2) invest the money in the trust; and
- 19 (3) deposit in the trust fund any interest that accrues from the
20 investment of these funds.

21 (b) The trustee shall invest, in a safe and profitable manner, all
22 parts of the trust. The trustee shall comply with the prudent
23 investor rule set forth in IC 30-4-3.5.

24 (c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust
25 established under this chapter.

26 Sec. 9. IC 30-4 (trust code) applies to a trust established under
27 this chapter.

28 Sec. 10. (a) The principal of the trust may not be diminished
29 during the term of the trust.

30 (b) The income that accrues from investment of the trust fund
31 shall be deposited in the trust.

32 (c) After the balance in the trust reaches one billion dollars
33 (\$1,000,000,000), all interest accruing from the investment of the
34 trust shall be distributed to the treasurer of state for deposit in the
35 major moves construction fund. However, the balance of the trust
36 may not be reduced to an amount less than one billion dollars
37 (\$1,000,000,000).

1 **Sec. 11. The report required under IC 30-4-5-12 is a public**
 2 **record. The attorney general may petition for an accounting as**
 3 **permitted by IC 30-4-5-12.**

4 **Sec. 12. (a) This section applies if a person does any of the**
 5 **following with respect to a trust created under this chapter:**

6 **(1) Commits a breach of the trust.**

7 **(2) Violates the mandate of the trust or trust agreement.**

8 **(3) Violates a duty imposed by this chapter, the trust**
 9 **agreement, or IC 30-4.**

10 **(b) The attorney general may petition a court to impose one (1)**
 11 **or more of the remedies described in IC 30-4-5.5-1.**

12 **Sec. 13. Any records, files, or documents relating to the trust**
 13 **may be examined by the state board of accounts at a time selected**
 14 **by the state board of accounts. The trustee shall upon request of**
 15 **the state board of accounts:**

16 **(1) produce and submit any records, files, or documents**
 17 **related to the trust; and**

18 **(2) assist in every way the state board of accounts in its work**
 19 **in making an examination.**

20 **SECTION 7. IC 8-14-16 IS ADDED TO THE INDIANA CODE**
 21 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 22 **UPON PASSAGE]:**

23 **Chapter 16. Local Major Moves Construction Funds**

24 **Sec. 1. This chapter applies only to the following counties:**

25 **(1) A county having a population of more than thirty-three**
 26 **thousand two hundred (33,200) but less than thirty-three**
 27 **thousand six hundred (33,600).**

28 **(2) A county having a population of more than thirty-four**
 29 **thousand nine hundred (34,900) but less than thirty-four**
 30 **thousand nine hundred fifty (34,950).**

31 **(3) A county having a population of more than one hundred**
 32 **ten thousand (110,000) but less than one hundred fifteen**
 33 **thousand (115,000).**

34 **(4) A county having a population of more than one hundred**
 35 **eighty-two thousand seven hundred ninety (182,790) but less**
 36 **than two hundred thousand (200,000).**

37 **(5) A county having a population of more than two hundred**

1 thousand (200,000) but less than three hundred thousand
2 (300,000).

3 (6) A county having a population of more than one hundred
4 forty-five thousand (145,000) but less than one hundred
5 forty-eight thousand (148,000).

6 (7) A county having a population of more than four hundred
7 thousand (400,000) but less than seven hundred thousand
8 (700,000).

9 **Sec. 2. "Airport authority project" means a project that can be**
10 **financed with the proceeds of bonds issued by an airport authority**
11 **under IC 8-22-3.**

12 **Sec. 3. "Commuter transportation district project" means a**
13 **project that can be financed with the proceeds of bonds issued by**
14 **a commuter transportation district under IC 8-5-15.**

15 **Sec. 4. "Economic development project" means the following:**

16 (1) An economic development project described in
17 IC 6-3.5-7-13.1(c).

18 (2) A dredging, sediment removal, or channel improvement
19 project.

20 **Sec. 5. As used in this chapter, "fund" refers to a local major**
21 **moves construction fund established by a county under section 3 of**
22 **this chapter.**

23 **Sec. 6. "Project" means an airport authority project, a**
24 **commuter transportation district project, an economic**
25 **development project, a regional transportation authority project,**
26 **or a shoreline development commission project.**

27 **Sec. 7. "Regional transportation authority project" means a**
28 **project that can be financed with the proceeds of bonds issued by**
29 **a regional transportation authority under IC 36-9-3.**

30 **Sec. 8. "Shoreline development commission project" means a**
31 **project that can be financed with the proceeds of bonds issued by**
32 **a shoreline development commission.**

33 **Sec. 9. (a) Each county described in section 1 of this chapter**
34 **shall establish a local major moves construction fund.**

35 (b) The fund consists of money distributed to the county from
36 the major moves construction fund under IC 8-14-14.

37 (c) The county auditor shall administer the fund.

(d) The county fiscal body, after consulting with the county executive, may appropriate money in the fund for a purpose described in section 10 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

Sec. 10. Money in the fund may be expended only for the following purposes:

(1) Acquiring, constructing, equipping, owning, leasing, and financing projects and facilities.

(2) Funding and developing airport authority projects, commuter transportation district and other rail projects and services, regional bus authority projects and services, shoreline development projects and activities, and economic development projects.

(3) Financing and constructing additional improvements to projects or other capital improvements owned by the county and leasing them to or for the benefit of another political subdivision.

(4) Acquiring land or all or a part of one (1) or more projects from a political subdivision by purchase or lease, and leasing the land or projects back to the political subdivision, with any additional improvements that may be made to the land or projects.

(5) Acquiring all or a part of one (1) or more projects from a political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the political subdivision to:

(A) make a savings in debt service obligations or lease rental obligations; or

(B) obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.

(6) Making loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:

(A) A commuter transportation district.

- 1 **(B) An airport authority or airport development authority.**
- 2 **(C) A shoreline development commission.**
- 3 **(D) A regional transportation authority.**
- 4 **(7) Providing funding to assist a railroad that is providing**
- 5 **commuter transportation services in an eligible county.**
- 6 **(8) Providing funding to assist an airport authority located in**
- 7 **an eligible county in the construction, reconstruction,**
- 8 **renovation, purchase, lease, acquisition, and equipping of an**
- 9 **airport facility or airport project.**
- 10 **(9) Providing funding to assist a shoreline development**
- 11 **commission in carrying out the purposes of IC 36-7-13.5.**
- 12 **(10) Funding bus services (including fixed route services and**
- 13 **flexible or demand-responsive services) and projects related**
- 14 **to bus services and bus terminals, stations, or facilities.**
- 15 **(11) Providing funding for economic development projects in**
- 16 **an eligible county.**
- 17 **(12) Matching federal grants for a purpose described in this**
- 18 **section.**
- 19 **(13) Providing funding for interlocal agreements under**
- 20 **IC 36-1-7 for a purpose described in this section.**

21 SECTION 8. IC 8-15-2-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The authority
 23 may do the following:

- 24 (1) Construct, maintain, repair, police, and operate toll road
- 25 projects (as defined in this chapter), public improvements, and
- 26 arterial streets and roads under section 1 of this chapter and
- 27 establish rules for the use of any such toll road project, public
- 28 improvement, or arterial street or road.
- 29 (2) Issue toll road revenue bonds of the state, payable solely from
- 30 an allocation of money from the rural transportation road fund
- 31 under IC 8-9.5-8-16 or from revenues or from the proceeds of
- 32 bonds issued under this chapter and earnings thereon, or from all
- 33 three (3), for the purpose of paying all or any part of the cost of
- 34 any one (1) or more toll road projects or for the purpose of
- 35 refunding any other toll road revenue bonds.
- 36 (3) Establish reserves from the proceeds of the sale of bonds or
- 37 from other funds, or both, to secure the payment of the bonds.

1 (4) Fix and revise from time to time and charge and collect tolls
2 for transit over each toll road project constructed by it.

3 (5) Acquire in the name of the state by purchase or otherwise, on
4 such terms and conditions and in such manner as it may deem
5 proper, or by the exercise of the right of condemnation in the
6 manner as provided by this chapter, such public or private lands,
7 including public parks, playgrounds or reservations, or parts
8 thereof or rights therein, rights-of-way, property, rights,
9 easements, and interests, as it may deem necessary for carrying out
10 the provisions of this chapter. The authority may also:

11 (A) sell, transfer, and convey any such land or any interest
12 therein so acquired, or any portion thereof, whether by
13 purchase, condemnation, or otherwise, and whether such land
14 or interest therein had been public or private, when the same
15 shall no longer be needed for such purposes; and

16 (B) transfer and convey any such lands or interest therein as
17 may be necessary or convenient for the construction and
18 operation of any toll road project, or as otherwise required
19 under the provisions of this chapter.

20 (6) Designate the locations and establish, limit, and control such
21 points of ingress to and egress from each toll road project as may
22 be necessary or desirable in the judgment of the authority to ensure
23 the proper operation and maintenance of such projects, and to
24 prohibit entrance to such project from any point not so designated.
25 The authority shall not grant, for the operation of transient lodging
26 facilities, either ingress to or egress from any project, including the
27 service areas thereof on which are located service stations and
28 restaurants, and including toll plazas and paved portions of the
29 right-of-way. The authority shall cause to be erected, at its cost, at
30 all points of ingress and egress, large and suitable signs facing
31 traffic from each direction on the toll road. Such signs shall
32 designate the number and other designations, if any, of all United
33 States or state highways of ingress or egress, the names of all
34 Indiana municipalities with a population of five thousand (5,000)
35 or more within a distance of seventy-five (75) miles on such roads
36 of ingress or egress, and the distance in miles to such designated
37 municipalities.

(7) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, ~~or IC 8-9.5-8,~~ **or IC 8-15.5**. When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

(B) a contract with the department under IC 8-9.5-8-7; ~~or~~

(C) a lease with the department under IC 8-9.5-8-8; **or**

(D) a contract, a lease, or another agreement under IC 8-15.5;

involves an expenditure of more than ten thousand dollars (\$10,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority of all contractors in an amount equal to at least fifty percent (50%) of the contract price, conditioned upon the faithful performance of the contract.

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road

project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

~~(14)~~ (15) Do all acts and things necessary or proper to carry out this chapter.

SECTION 9. IC 8-15-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority may:

(1) fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof,

1 including the right-of-way adjoining the paved portion and for
 2 placing thereon telephone, telegraph, electric light, or power lines;
 3 ~~and~~

4 (2) fix the terms, conditions, and rates of charge for such use,
 5 **including assessments for the failure to pay required tolls,**
 6 subject, however, to the state's police power; **and**

7 **(3) collect tolls, user fees, or other charges through manual or**
 8 **nonmanual methods, including, but not limited to, automatic**
 9 **vehicle identification systems, electronic toll collection**
 10 **systems, and, to the extent permitted by law, including rules**
 11 **adopted by the authority under IC 8-15-2-17.2(a)(10), global**
 12 **positioning systems and photo or video based toll collection or**
 13 **toll collection enforcement systems.**

14 (b) Notwithstanding subsection (a), no toll or charge shall be made
 15 by the authority **under this section or under a public-private**
 16 **agreement entered into under IC 8-15.5** for:

17 (1) the operation of temporary lodging facilities located upon or
 18 adjacent to any project, nor may the authority itself operate or
 19 gratuitously permit the operation of such temporary lodging
 20 facilities by other persons without any toll or charge; or

21 (2) placing in, on, along, over, or under such project, such
 22 telephone, telegraph, electric light or power lines, equipment, or
 23 facilities as may be necessary to serve establishments located on
 24 the project or as may be necessary to interconnect any public
 25 utility facilities on one (1) side of the toll road project with those
 26 on the other side.

27 (c) All contracts executed by the authority shall be preserved in the
 28 principal office of the authority.

29 (d) In the case of a toll road project that is not leased to the
 30 department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for
 31 each toll road project so that the aggregate of the tolls from the project,
 32 together with other revenues that are available to the authority without
 33 prior restriction or encumbrance, will at least be adequate to pay:

34 (1) the cost of operating, maintaining, and repairing the toll road
 35 project, including major repairs, replacements, and improvements;

36 (2) the principal of and the interest on bonds issued in connection
 37 with the toll road project, as the principal and interest becomes due

1 and payable, including any reserve or sinking fund required for the
2 project; and

3 (3) the payment of principal of and interest on toll road bonds
4 issued by the authority in connection with any other toll road
5 project, including any reserve or sinking fund required for the
6 project, but only to the extent that the authority provides by
7 resolution and subject to the provisions of any trust agreement
8 relating to the project.

9 (e) Not less than one (1) year before the date that final payment of
10 all such bonds, interest, and reimbursement is expected by the chairman
11 of the authority to be completed, the chairman shall notify the state
12 budget committee in writing of the expected date of final payment.

13 (f) Such tolls shall not be subject to supervision or regulation by any
14 other commission, board, bureau, or agency of the state.

15 (g) The tolls, rents, and all other revenues derived by the authority
16 from the toll road project, **except those received in accordance with**
17 **a public-private agreement under IC 8-15.5**, shall be used as
18 follows:

19 (1) To pay the cost of operating, maintaining, and repairing the
20 toll road project, including major repairs, replacements, and
21 improvements, to the extent that those costs are not paid out of
22 other funds.

23 (2) To the extent provided for in the resolution authorizing the
24 issuance of bonds under this chapter or in the trust agreement
25 securing the bonds, to pay:

26 (A) the principal of and interest on any bonds as the principal
27 and interest become due; or

28 (B) the redemption price or purchase price of the bonds retired
29 by call or purchase.

30 (3) Except as prohibited by the resolution authorizing the issuance
31 of bonds under this chapter or the trust agreement securing them,
32 for any purpose relating to any toll road project, including the
33 subject toll road project, as the authority provides by resolution.

34 (h) Neither the resolution nor any trust agreement by which a pledge
35 is created needs to be filed or recorded except in the records of the
36 authority.

37 (i) The use and disposition of moneys to the credit of any sinking

1 fund shall be subject to the provisions of any resolution or resolutions
 2 authorizing the issuance of any bonds or of any trust agreement. Except
 3 as may otherwise be provided in this chapter or in any resolution or any
 4 trust agreement, any sinking fund shall be a fund for all bonds without
 5 distinction or priority of one over another, subject, however, to such
 6 priorities as may arise from prior pledges.

7 (j) In the case of a toll road project that is leased to the department
 8 under IC 8-9.5-8-8, the lease must require that the department fix tolls
 9 for the toll road project that comply with IC 8-9.5-8-8(c)(6).

10 **(k) User fees (as defined in IC 8-15.5-2-10) for a toll road**
 11 **project that is subject to a public-private agreement under**
 12 **IC 8-15.5 shall be set in accordance with IC 8-15.5-7.**

13 SECTION 10. IC 8-15-2-14.5, AS AMENDED BY P.L.214-2005,
 14 SECTION 52, IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 14.5. (a) Subject to the
 16 provisions and requirements of any trust agreement providing for the
 17 issuance of toll road revenue bonds and only to the extent permitted by
 18 such trust agreement, the authority shall fix the tolls for any toll road
 19 under its jurisdiction.

20 **(b) Subsection (a) does not apply to tolls fixed, authorized, or**
 21 **established in accordance with a public-private agreement under**
 22 **IC 8-15.5.**

23 SECTION 11. IC 8-15-2-14.7, AS ADDED BY P.L.214-2005,
 24 SECTION 53, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE UPON PASSAGE]: Sec. 14.7. (a) As used in this
 26 section, "development authority" refers to the development authority
 27 established under IC 36-7.5-2-1.

28 (b) Subject to the trust agreement of any outstanding bonds and
 29 subject to the requirements of subsection (d), the authority shall
 30 distribute to the development authority in calendar year 2006 and
 31 calendar year 2007 from revenues accruing to the authority from the toll
 32 road at least five million dollars (\$5,000,000) and not more than ten
 33 million dollars (\$10,000,000) each year. The amount of the distribution
 34 for a year shall be determined by the authority. The amount to be
 35 distributed each year shall be distributed in equal quarterly amounts
 36 before the last business day of January, April, July, and October of
 37 2006 and 2007. The amounts distributed under this subsection shall be

deposited in the development authority fund established under
~~IC 36-7.5-4-1.~~

(c) Subject to the trust agreement of any outstanding bonds and
 subject to the requirements of subsections (d) and (e), after 2007, the
 authority may distribute to the development authority amounts from
 revenues accruing to the authority from the toll road. The amount of any
 distribution for a year shall be determined by the authority. Any
 amounts to be distributed for the year under this subsection shall be
 distributed in equal quarterly amounts before the last business day of
 January, April, July, and October of the year. Any amounts distributed
 under this subsection shall be deposited in the development authority
 fund established under ~~IC 36-7.5-4-1.~~

(d) A distribution may be made by the authority (b) An
appropriation made by the general assembly to the development
 authority under subsection (b) or (c) **may be distributed to the**
development authority only if all transfers required from cities and
 counties to the development authority under IC 36-7.5-4-2 have been
 made.

(e) A distribution may be made by the authority (c) An
appropriation made by the general assembly to the development
authority may be distributed to the development authority under
 subsection (c) only after:

(1) the budget committee has reviewed; ~~the development~~
~~authority's comprehensive strategic development plan under~~
~~IC 36-7.5-3-4 and~~

(2) the director of the office of management and budget has
 approved;

the comprehensive strategic development plan **submitted in**
accordance with IC 36-7.5-3.4.

~~(f)~~ (d) If the Indiana Toll Road is sold or leased before January 1,
 2008 (other than a lease to the department), and the sale or lease
 agreement does not require the purchaser or lessee to continue making
 the distributions required by subsection (b), the treasurer of state shall
 pay an amount equal to the greater of zero (0) or the result of:

(1) twenty million dollars (\$20,000,000); minus

(2) any amounts transferred to the development authority under

1 this subsection before the sale or lease;
 2 from the state general fund the amount, if any, appropriated by the
 3 **general assembly** to the development authority fund established under
 4 IC 36-7.5-4-1.

5 ~~(g)~~ (e) Amounts distributed or paid to the development authority
 6 under this section may be used for any purpose of the development
 7 authorized under IC 36-7.5.

8 ~~(h) The amounts necessary to make any distributions or payments~~
 9 ~~required or authorized by this section are appropriated:~~

10 SECTION 12. IC 8-15-2-15 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) All moneys
 12 received pursuant to the authority of this chapter, whether as proceeds
 13 from the sale of bonds or as revenues, shall be deemed to be trust funds,
 14 to be held and applied solely as provided in this chapter. Such funds
 15 shall be kept in depositories as selected by the authority and may be
 16 invested until expended, all as provided by law.

17 (b) The resolution authorizing the issuance of bonds of any issue or
 18 the trust agreement securing such bonds shall provide that any officer
 19 to whom, or any bank or trust company to which, such moneys shall be
 20 paid shall:

21 (1) act as trustee of such moneys; and

22 (2) hold and apply the same for the purposes of this chapter,
 23 subject to such regulations as this chapter and such resolution or
 24 trust agreement may provide.

25 **(c) This section does not apply to money paid or received with**
 26 **respect to a toll road project that is the subject of a public-private**
 27 **agreement under IC 8-15.5.**

28 SECTION 13. IC 8-15-2-17.2, AS AMENDED BY P.L.151-2005,
 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 17.2. (a) Notwithstanding IC 9, the authority
 31 may adopt rules:

32 (1) Establishing weight and size limitations for vehicles using a
 33 toll road project, subject to the following:

34 (A) The operator of any vehicle exceeding any of the maximum
 35 allowable dimensions or weights as set out by the authority in
 36 rules and regulations shall apply to the authority in writing, for
 37 an application for a special hauling permit, which application

1 must be in compliance with all the terms thereof, and which
 2 application must be received at least seven (7) days prior to the
 3 time of permitted entry should such permit be granted. Such
 4 permit, if granted, will be returned to the applicant in duplicate,
 5 properly completed and numbered, and the driver of the vehicle
 6 shall have a copy to present to the toll attendant on duty at the
 7 point of entry.

8 (B) The authority shall assess a fee for issuing a special
 9 hauling permit. In assessing the fee, the authority shall take
 10 into consideration the following factors:

11 (i) The administrative cost of issuing the permit.

12 (ii) The potential damage the vehicle represents to the
 13 project.

14 (iii) The potential safety hazard the vehicle represents.

15 (2) Establishing the minimum speed that a motor vehicle may be
 16 driven on the interstate defense network of dual highways.

17 (3) Designating one-way traffic lanes on a toll road project.

18 (4) Determining the manner of operation of motor vehicles
 19 entering and leaving traffic lanes on a toll road project.

20 (5) Determining the regulation of U-turns, of crossing or entering
 21 medians, of stopping, parking, or standing, and of passing motor
 22 vehicles on a toll road project.

23 (6) Determining the establishment and enforcement of traffic
 24 control signs and signals for motor vehicles in traffic lanes,
 25 acceleration and deceleration lanes, toll plazas, and interchanges
 26 on a toll road project.

27 (7) Determining the limitation of entry to and exit from a toll road
 28 project to designated entrances and exits.

29 (8) Determining the limitation on use of a toll road project by
 30 pedestrians and aircraft and by vehicles of a type specified in such
 31 rules and regulations.

32 (9) Regulating commercial activity on a toll road project, including
 33 but not limited to:

34 (A) the offering or display of goods or services for sale;

35 (B) the posting, distributing, or displaying of signs,
 36 advertisements, or other printed or written material; and

37 (C) the operation of a mobile or stationary public address

1 system.

2 **(10) Establishing enforcement procedures and making**
 3 **assessments for the failure to pay required tolls.**

4 (b) A person who violates a rule adopted under this section commits
 5 a Class C infraction. However, a violation of a weight limitation
 6 established by the authority under this section is:

7 (1) a Class B infraction if the total of all excesses of weight under
 8 those limitations is more than five thousand (5,000) pounds but
 9 not more than ten thousand (10,000) pounds; and

10 (2) a Class A infraction if the total of all excesses of weight under
 11 those limitations is more than ten thousand (10,000) pounds.

12 (c) It is a defense to the charge of violating a weight limitation
 13 established by the authority under this section that the total of all
 14 excesses of weight under those limitations is less than one thousand
 15 (1,000) pounds.

16 (d) The court may suspend the registration of a vehicle that violated:

17 **(1) a size or weight limitation established by the authority under**
 18 **this section; or**

19 **(2) a rule adopted under subsection (a)(10);**

20 for a period of not more than ninety (90) days.

21 (e) Upon the conviction of a person for a violation of a weight or size
 22 limitation established by the authority under this section, the court may
 23 recommend suspension of the person's current chauffeur's license only
 24 if the violation was committed knowingly.

25 SECTION 14. IC 8-15-2-19 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The
 27 authority may, after adopting a resolution and after receiving the
 28 governor's approval, at any time determine under IC 8-23-7 that a toll
 29 road project constructed or operated by the authority, **other than a toll**
 30 **road project that is subject to a public-private agreement under**
 31 **IC 8-15.5**, should become a part of the system of state highways free
 32 of tolls or become a tollway under IC 8-15-3.

33 (b) Any resolution as to any project described in subsection (a) shall
 34 not become effective until all bonds to which the revenues of any project
 35 were pledged for payment, together with all interest thereon, is paid, or
 36 a sufficient amount for the payment of all bonds and the interest thereon
 37 to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), **and subject to the terms of any public-private agreement under IC 8-15.5**, any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided in this chapter. ~~Subject to any agreement entered into by the Secretary of Commerce of the United States, acting by and through the federal highway administrator, the Indiana toll road commission, and the state, acting by and through the Indiana department of transportation,~~ Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.

SECTION 15. IC 8-15-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. **(a) Except as provided in subsection (b), and** notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

SECTION 16. IC 8-15-2-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. **If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.**

SECTION 17. IC 8-15-2-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. **A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.**

SECTION 18. IC 8-15-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The governor

1 must approve the location of any tollway.

2 (b) **Subject to subsection (e)**, the department may, **in any**
 3 **combination, plan, design, develop**, construct, reconstruct, maintain,
 4 repair, police, **finance**, and operate tollways, public improvements, and
 5 arterial streets and roads at those locations that the governor approves.

6 (c) The department may, **in any combination, plan, design,**
 7 **develop**, construct, reconstruct, improve, **finance, repair**, or maintain
 8 public improvements such as roads and streets, sewer lines, ~~and~~ water
 9 lines, **and other utilities** if these improvements are:

10 (1) adjacent **or appurtenant** to a tollway; **or**

11 (2) **necessary or desirable for the financing, construction,**
 12 **operation, or maintenance of a tollway.**

13 (d) The department may, **in any combination, plan, design,**
 14 **develop**, construct, reconstruct, ~~or~~ **improve, maintain, repair,**
 15 **operate, or** finance the construction or reconstruction of an arterial
 16 highway or an arterial street that:

17 (1) **is adjacent to, appurtenant to, or** interchanges with a
 18 tollway; or

19 (2) intersects with a road or street that interchanges with a tollway.

20 (e) **Notwithstanding any other law, the route of a tollway**
 21 **project may not terminate along any part of a highway that:**

22 (1) **has at least four (4) lanes; and**

23 (2) **is located in a township having a population of at least**
 24 **eighty thousand (80,000).**

25 SECTION 19. IC 8-15-3-9 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Subject to**
 27 **subsections (e) and (f)**, the governor must approve the location of any
 28 tollway.

29 (b) The department may construct, reconstruct, maintain, repair,
 30 police, and operate tollways, public improvements, and arterial streets
 31 and roads at those locations that the governor approves.

32 (c) The department may develop, construct, reconstruct, improve, or
 33 maintain public improvements such as roads and streets, sewer lines,
 34 and water lines, if these improvements are adjacent to a tollway.

35 (d) The department may construct, reconstruct, or finance the
 36 construction or reconstruction of an arterial highway or an arterial street

that interchanges with a tollway or intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the route of a tollway may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

(f) The department may not establish a tollway under this chapter unless the general assembly adopts a statute authorizing the establishment of the tollway.

SECTION 20. IC 8-15.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR TOLL ROAD PROJECTS

Chapter 1. General Provisions

Sec. 1. The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement that would authorize an operator to

1 impose tolls for the operation of motor vehicles on all or part of a
 2 project, unless the general assembly adopts a statute authorizing
 3 the imposition of tolls.

4 Chapter 2. Definitions

5 Sec. 1. The definitions in this chapter apply throughout this
 6 article.

7 Sec. 2. "Authority" refers to the Indiana finance authority.

8 Sec. 3. "Department" refers to the Indiana department of
 9 transportation.

10 Sec. 4. "Offeror" means a private entity that has submitted a
 11 proposal for a public-private agreement under this article.

12 Sec. 5. "Operator" means a private entity that has entered into
 13 a public-private agreement with the authority.

14 Sec. 6. "Private entity" means any individual, sole
 15 proprietorship, corporation, limited liability company, joint
 16 venture, general partnership, limited partnership, nonprofit entity,
 17 or other private legal entity. A public agency may provide services
 18 to a private entity without affecting the private status of the private
 19 entity and the ability to enter into a public-private agreement.

20 Sec. 7. "Project" or "toll road project" has the meaning set
 21 forth in IC 8-15-2-4(4).

22 Sec. 8. "Public-private agreement" means an agreement under
 23 this article between a private entity and the authority under which
 24 the private entity, acting on behalf of the authority as lessee,
 25 licensee, or franchisee, will plan, design, acquire, construct,
 26 reconstruct, improve, extend, expand, lease, operate, repair,
 27 manage, maintain, or finance a toll road project.

28 Sec. 9. "Request for proposals" means all materials and
 29 documents prepared by or on behalf of the authority to solicit
 30 proposals from offerors to enter into a public-private agreement.

31 Sec. 10. "User fees" means the rates, tolls, or fees imposed for
 32 the use of, or incidental to, all or any part of a toll road project
 33 under a public-private agreement.

34 Chapter 3. Authority to Enter Into Public-Private Agreements

35 Sec. 1. Subject to the other provisions of this article, the
 36 authority and a private entity may enter into a public-private
 37 agreement with respect to a toll road project. Subject to the

requirements of this article, a public-private agreement may provide that the private entity is partially or entirely responsible for any combination of the following activities with respect to the project:

- (1) Planning.
- (2) Design.
- (3) Acquisition.
- (4) Construction.
- (5) Reconstruction.
- (6) Improvement.
- (7) Extension or expansion.
- (8) Operation.
- (9) Repair.
- (10) Management.
- (11) Maintenance.
- (12) Financing.

Chapter 4. Selection of Operator by Request for Proposals

Sec. 1. Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a toll road project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

Sec. 2. A request for proposals issued by the authority must include the following:

- (1) The factors or criteria that will be used in evaluating the proposals.
- (2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.
- (3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.
- (4) A statement concerning any other information that the authority may consider in evaluating the proposals.
- (5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may

1 not disclose the contents of proposals during:

2 (A) discussions; or

3 (B) negotiations;

4 with eligible offerors to other eligible offerors.

5 Sec. 3. Notice of a request for proposals shall be given by
6 publication in accordance with IC 5-3-1.

7 Sec. 4. As provided in a request for proposals, discussions may
8 be conducted with the offerors for the purpose of clarification to
9 assure full understanding of and responsiveness to the solicitation
10 requirements.

11 Sec. 5. Eligible offerors must be accorded fair and equal
12 treatment with respect to any opportunity for discussion and
13 revision of proposals.

14 Sec. 6. (a) The authority may not disclose the contents of
15 proposals during discussions or negotiations with eligible offerors.

16 (b) The authority may, in its discretion in accordance with
17 IC 5-14-3, treat as confidential all records relating to discussions
18 or negotiations between the authority and eligible offerors if those
19 records are created while discussions or negotiations are in
20 progress.

21 (c) Notwithstanding subsections (a) and (b), and with the
22 exception of parts that are confidential under IC 5-14-3, the terms
23 of the selected offer negotiated under this article shall be available
24 for inspection and copying under IC 5-14-3 after negotiations with
25 the offerors have been completed.

26 (d) When disclosing the terms of the selected offer under
27 subsection (c), the authority shall certify that the information being
28 disclosed accurately and completely represents the terms of the
29 selected offer.

30 Sec. 7. The authority shall negotiate with one (1) or more
31 responsible offerors who submit proposals that are determined to
32 be reasonably capable of being selected for a public-private
33 agreement and may seek to obtain a final offer from one (1) or
34 more responsible offerors.

35 Sec. 8. After the final offers from responsible offerors have been
36 negotiated under section 7 of this chapter, the authority shall:

37 (1) make a preliminary selection of an offeror as the operator

1 for the related toll road project, whose final offer shall be
 2 referred to in this article as the "selected offer"; or
 3 (2) terminate the request for proposal process.

4 **Sec. 9.** If the authority makes a preliminary selection of an
 5 operator under section 8 of this chapter, the authority shall
 6 schedule a public hearing on the preliminary selection and publish
 7 notice of the hearing one (1) time in accordance with IC 5-3-1 at
 8 least seven (7) days before the hearing. The notice must include the
 9 following:

- 10 (1) The date, time, and place of the hearing.
- 11 (2) The subject matter of the hearing.
- 12 (3) A description of the related toll road project and of the
 13 public-private agreement to be awarded.
- 14 (4) The identity of the offeror that has been preliminarily
 15 selected as the operator for the project.
- 16 (5) The address and telephone number of the authority.
- 17 (6) A statement indicating that, subject to section 6 of this
 18 chapter, and except for those portions that are confidential
 19 under IC 5-14-3, the selected offer and an explanation of the
 20 basis upon which the preliminary selection was made are
 21 available for public inspection and copying at the principal
 22 office of the authority during regular business hours.

23 **Sec. 10. (a)** Subject to section 6 of this chapter, and except for
 24 those parts that are confidential under IC 5-14-3, the selected offer
 25 and a written explanation of the basis upon which the preliminary
 26 selection was made shall be made available for inspection and
 27 copying in accordance with IC 5-14-3 at least seven (7) days before
 28 the hearing scheduled under section 9 of this chapter.

29 (b) At the hearing, the authority shall allow the public to be
 30 heard on the preliminary selection.

31 **Sec. 11. (a)** After the procedures required in this chapter have
 32 been completed, the authority shall make a determination as to
 33 whether the offeror that submitted the selected offer should be
 34 designated as the operator for the related toll road project and
 35 shall submit the authority's determination to the governor and the
 36 budget committee.

37 (b) After review of the authority's determination by the budget

committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

Sec. 12. Any action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of an operator under the public-private agreement as provided in section 11 of this chapter.

Sec. 13. The authority shall disclose the contents of all proposals, except the portions of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 8 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

Chapter 5. Terms and Conditions of Public-Private Agreements

Sec. 1. (a) Before developing or operating a toll road project, a private entity that has been selected as the operator of a toll road project under this article shall enter into a public-private agreement with the authority setting forth the rights and duties of the operator under this article.

(b) A public-private agreement entered into under this article must be approved by the governor before its execution.

Sec. 2. A public-private agreement entered into under this article must provide for the following:

(1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.

(2) Provisions for a:

(A) lease, franchise, or license of the toll road project and

- 1 the real property owned by the authority upon which the
- 2 toll road project is located or is to be located; or
- 3 **(B) management agreement or other contract to operate**
- 4 **the toll road project and the real property owned by the**
- 5 **authority upon which the toll road project is located or is**
- 6 **to be located;**
- 7 **for a predetermined period. The public-private agreement**
- 8 **must provide for ownership of all improvements and real**
- 9 **property by the authority in the name of the state.**
- 10 **(3) Monitoring of the operator's maintenance practices by the**
- 11 **authority and the taking of actions by the authority that it**
- 12 **considers appropriate to ensure that the toll road project is**
- 13 **properly maintained.**
- 14 **(4) The basis upon which user fees that may be collected by**
- 15 **the operator, as determined under this article, are established.**
- 16 **(5) Compliance with applicable state and federal laws and**
- 17 **local ordinances.**
- 18 **(6) Grounds for termination of the public-private agreement**
- 19 **by the authority or the operator.**
- 20 **(7) The date of termination of the operator's authority and**
- 21 **duties under this article.**
- 22 **(8) Procedures for amendment of the agreement.**
- 23 **Sec. 3. In addition to the requirements of section 2 of this**
- 24 **chapter, a public-private agreement may include additional**
- 25 **provisions concerning:**
- 26 **(1) Review and approval by the authority of the operator's**
- 27 **plans for the development and operation of the toll road**
- 28 **project.**
- 29 **(2) Inspection by the authority of construction of or**
- 30 **improvements to the toll road project.**
- 31 **(3) Maintenance by the operator of a policy or policies of**
- 32 **public liability insurance (copies of which shall be filed with**
- 33 **the authority, accompanied by proofs of coverage) or**
- 34 **self-insurance, each in a form and amount satisfactory to the**
- 35 **authority to insure coverage of tort liability to the public and**
- 36 **employees and to enable the continued operation of the toll**
- 37 **road project.**

- 1 **(4) Filing by the operator, on a periodic basis, of appropriate**
2 **financial statements in a form acceptable to the authority.**
- 3 **(5) Filing by the operator, on a periodic basis, of appropriate**
4 **traffic reports in a form acceptable to the authority.**
- 5 **(6) Payments to the operator. These payments may consist of**
6 **one (1) or more of the following:**
 - 7 **(A) The retention by the operator of the revenues collected**
8 **by the operator in the operation and management of the**
9 **toll road project.**
 - 10 **(B) Payments made to the operator by the authority.**
 - 11 **(C) Other sources of payment or revenue to the operator,**
12 **if any.**
- 13 **(7) Financing obligations of the operator and the authority,**
14 **including entering into agreements for the benefit of the**
15 **financing parties.**
- 16 **(8) Apportionment of expenses between the operator and the**
17 **authority.**
- 18 **(9) The rights and duties of the operator, the authority, and**
19 **other state and local governmental entities with respect to use**
20 **of the toll road project, including the state police department**
21 **and other law enforcement and public safety agencies.**
- 22 **(10) Arbitration or other dispute resolution mechanisms or**
23 **remedies for the settlement of claims and other disputes**
24 **arising under the agreement.**
- 25 **(11) Payment of money to either party upon default or delay,**
26 **or upon termination of the public-private agreement, with the**
27 **payments to be used:**
 - 28 **(A) in the form of liquidated damages to compensate the**
29 **operator for demonstrated unamortized costs, lost profits,**
30 **or other amounts as provided in the agreement;**
 - 31 **(B) to retire or refinance indebtedness related to the toll**
32 **road project or the public-private agreement; or**
 - 33 **(C) for any other purpose mutually agreeable to the**
34 **operator and the authority.**
- 35 **(12) Indemnification of the operator by the authority under**
36 **conditions specified in the agreement.**
- 37 **(13) Assignment, subcontracting, or other delegation of**

responsibilities of the operator or the authority under the agreement to third parties, including other private entities, the department, and other state agencies.

(14) Sale or lease to the operator of personal property related to the toll road project.

(15) Other lawful terms and conditions to which the operator and the authority mutually agree.

Sec. 4. (a) The operator may finance its obligations with respect to the toll road project and the public-private agreement in the amounts and upon the terms and conditions determined by the operator.

(b) The operator may:

(1) issue debt, equity, or other securities or obligations;

(2) enter into sale and leaseback transactions; and

(3) secure any financing with a pledge of, security interest in, or lien on any user fees charged and collected for the use of the toll road project and any property interest of the operator toll road project.

However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

(c) The operator may deposit the user fees charged and collected for the use of the toll road project in a separate account held by a trustee or escrow agent for the benefit of the secured parties of the operator.

Sec. 5. Notwithstanding any contrary provision of this article, the authority may enter into a public-private agreement with multiple private entities if the authority determines in writing that it is in the public interest to do so.

Sec. 6. The department or any other state agency may perform any duties and exercise any powers of the authority under this article or the public-private agreement that have been assigned, subcontracted, or delegated to it by the authority.

Chapter 6. Construction and Operating Standards for Toll Road Projects

1 **Sec. 1. The plans and specifications for each toll road project**
 2 **constructed under this article must comply with:**

3 **(1) the authority's standards for other projects of a similar**
 4 **nature, except as otherwise provided in the public-private**
 5 **agreement; and**

6 **(2) any other applicable state or federal standards.**

7 **Sec. 2. Unless otherwise provided by federal law, the operator**
 8 **or any contractor or subcontractor of the operator engaged in the**
 9 **construction of a toll road project is not required to comply with**
 10 **IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17**
 11 **concerning purchases of materials and supplies, or other statutes**
 12 **concerning procedures for procurement of public works or**
 13 **personal property as a condition of being awarded and performing**
 14 **work on the project.**

15 **Sec. 3. The operator or any contractor or subcontractor of the**
 16 **operator engaged in the construction of a toll road project is**
 17 **subject to:**

18 **(1) the provisions of 25 IAC 5 concerning equal opportunities**
 19 **for minority business enterprises and women's business**
 20 **enterprises to participate in procurement and contracting**
 21 **processes; and**

22 **(2) the provisions that may be established by the authority in**
 23 **a public-private agreement with respect to awarding**
 24 **contracts to Indiana businesses (as defined in**
 25 **IC 5-22-15-20.5).**

26 **Sec. 4. Each toll road project constructed or operated under this**
 27 **article is considered to be part of the state highway system**
 28 **designated under IC 8-23-4-2 for purposes of identification,**
 29 **maintenance standards, and enforcement of traffic laws.**

30 **Sec. 5. An operator may enter into agreements for maintenance**
 31 **or other services under this article with the authority, the**
 32 **department, or other state agencies. The authority may:**

33 **(1) with the assistance of all applicable state agencies,**
 34 **establish a unified permitting and licensing process for the**
 35 **processing and issuance of all necessary permits and licenses**
 36 **for toll road projects under this article, including, but not**
 37 **limited to, all environmental permits and business and tax**

licenses; and

(2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of toll road projects under this article.

Sec. 6. The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

Chapter 7. User Fees

Sec. 1. (a) Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

(b) In fixing the amounts referred to in subsection (a), the authority may:

- (1) establish maximum amounts for the user fees; and
- (2) provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.

Sec. 2. A schedule of the current user fees shall be made available by the operator to any member of the public on request.

Sec. 3. User fees established by the authority under this article are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state, or by any political subdivision.

Sec. 4. (a) User fees established by the authority under section 1 of this chapter for the use of a toll road project must be nondiscriminatory and may:

- (1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate;
- (2) vary by time of day or year; or
- (3) be based on one (1) or more factors considered relevant by

the authority, which may include any combination of:

(A) the costs of:

(i) operation;

(ii) maintenance; and

(iii) repair and rehabilitation;

(B) debt service payments on bonds or other obligations;

(C) adequacy of working capital;

(D) depreciation;

(E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and

(F) the sufficiency of income to:

(i) maintain the toll road project in a sound physical and financial condition to render adequate and efficient service; and

(ii) induce an operator to enter into a public-private agreement.

Sec. 5. A public-private agreement may:

(1) grant an operator a license or franchise to charge and collect tolls for the use of the toll road project;

(2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;

(3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or as approved by the authority;

(4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third

1 party.

2 Sec. 6. (a) After expiration of a public-private agreement, the
3 authority may:

4 (1) continue to charge user fees for the use of the toll road
5 project; or

6 (2) delegate to a third party the authority to continue to
7 collect the user fees.

8 (b) Revenues collected under this section must first be used for
9 operations and maintenance of the toll road project. Any revenues
10 determined by the authority to be excess must be paid to the
11 authority for deposit in the toll road fund established by
12 IC 8-15.5-11.

13 Sec. 7. Any action to contest the validity of user fees fixed under
14 this chapter may not be brought after the fifteenth day following
15 the effective date of a rule fixing the user fees adopted under
16 IC 4-22-2-37.1(a)(30).

17 Chapter 8. Taxation of Operators

18 Sec. 1. A toll road project and tangible personal property used
19 exclusively in connection with a toll road project that are:

20 (1) owned by the authority and leased, franchised, licensed or
21 otherwise conveyed to an operator; or

22 (2) acquired, constructed, or otherwise provided by an
23 operator in connection with the toll road project;

24 under the terms of a public-private agreement are considered to be
25 public property devoted to an essential public and governmental
26 function and purpose and the property, and an operator's
27 leasehold estate, franchise, license, and other interests in the
28 property are exempt from all ad valorem property taxes and
29 special assessments levied against property by the state or any
30 political subdivision of the state.

31 Sec. 2. Income received by an operator under the terms of a
32 public-private agreement is subject to taxation in the same manner
33 as income received by other private entities.

34 Sec. 3. An operator or any other person purchasing tangible
35 personal property for incorporation into or improvement of a
36 structure or facility constituting or becoming part of the land
37 included in the toll road project is not exempt from the application

1 of the gross retail or use tax under IC 6-2.5 with respect to such a
2 purchase.

3 **Chapter 9. Records of Operators**

4 **Sec. 1. Records that are provided by an operator to the**
5 **authority that relate to compliance by an operator with the terms**
6 **of a public-private agreement are subject to inspection and copying**
7 **in accordance with IC 5-14-3.**

8 **Chapter 10. Additional Powers of the Authority Concerning**
9 **Toll Road Projects**

10 **Sec. 1. The authority may exercise any powers provided under**
11 **this article in participation or cooperation with the department or**
12 **any other governmental entity and enter into any contracts to**
13 **facilitate that participation or cooperation without compliance**
14 **with any other statute.**

15 **Sec. 2. (a) The authority may make and enter into all contracts**
16 **and agreements necessary or incidental to the performance of the**
17 **authority's duties and the execution of the authority's powers**
18 **under this article. These contracts or agreements are not subject**
19 **to any approvals other than the approval of the authority and may**
20 **be for any term of years and contain any terms that are considered**
21 **reasonable by the authority.**

22 **(b) The:**

23 **(1) department; and**

24 **(2) any other state agency;**

25 **may make and enter into all contracts and agreements necessary**
26 **or incidental to the performance of the duties and the execution of**
27 **the powers granted to the department or the state agency in**
28 **accordance with this article or the public-private agreement. These**
29 **contracts or agreements are not subject to any approvals other**
30 **than the approval of the department or state agency and may be**
31 **for any term of years and contain any terms that are considered**
32 **reasonable by the department or the state agency.**

33 **Sec. 3. (a) The authority may pay any amounts owed by the**
34 **authority under a public-private agreement entered into under this**
35 **article from any funds available to the authority under this article**
36 **or any other statute.**

37 **(b) Subject to review by the budget committee established by**

1 IC 4-12-1-3 and approval by the budget director appointed under
 2 IC 4-12-1-3, a public-private agreement entered into under this
 3 article may:

4 (1) establish a procedure for the authority or a person acting
 5 on behalf of the authority to certify to the general assembly
 6 the amount needed to pay any amounts owed by the authority
 7 under a public-private agreement; or

8 (2) otherwise create a moral obligation of the state to pay any
 9 amounts owed by the authority under the public-private
 10 agreement.

11 (c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2
 12 to provide funds for any amounts identified under this section
 13 without complying with IC 8-9.5-8-10.

14 Sec. 4. For purposes of this article, the authority may authorize
 15 an operator under a public-private agreement to perform any of
 16 its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and
 17 IC 8-15-2-24.

18 Sec. 5. The authority may exercise any of its powers under
 19 IC 8-15-2 or any other provision of Indiana Code as necessary or
 20 desirable for the performance of the authority's duties and the
 21 execution of the authority's powers under this article.

22 Sec. 6. The authority may not take any action under this chapter
 23 that would impair the public-private agreement entered into under
 24 this article.

25 Sec. 7. (a) The authority shall enter into an agreement between
 26 and among the operator, the authority, and the state police
 27 department concerning the provision of law enforcement assistance
 28 with respect to a toll road project that is the subject of a
 29 public-private agreement under this article.

30 (b) The authority shall enter into arrangements with the state
 31 police department related to costs incurred in providing law
 32 enforcement assistance under this article.

33 (c) All law enforcement officers of the state and any political
 34 subdivision have the same powers and jurisdiction within the limits
 35 of a toll road project as they have in their respective areas of
 36 jurisdiction, including the roads and highways of the state. These
 37 law enforcement officers shall have access to a toll road project

1 that is the subject of a public-private agreement to exercise their
2 powers and jurisdiction.

3 **Chapter 11. Toll Road Fund**

4 **Sec. 1.** As used in this chapter, "account" refers to an account
5 established within the fund.

6 **Sec. 2.** As used in this chapter, "fund" refers to the toll road
7 fund established by section 3 of this chapter.

8 **Sec. 3. (a)** The toll road fund is established to provide funds to:

9 (1) pay or defease certain bonds in the manner provided by
10 this chapter;

11 (2) pay amounts owed by the authority in connection with the
12 execution and performance of a public-private agreement
13 under this article, including operating expenses of the
14 authority; and

15 (3) make distributions to the next generation trust fund and
16 the major moves construction fund.

17 (b) The authority shall hold, administer, and manage the fund.

18 (c) Expenses of administering the fund shall be paid from money
19 in the fund.

20 (d) The fund consists of the following:

21 (1) Money received from an operator under a public-private
22 agreement.

23 (2) Appropriations, if any, made by the general assembly.

24 (3) Grants and gifts intended for deposit in the fund.

25 (4) Interest, premiums, gains, or other earnings on the fund.

26 (e) The authority shall establish the following separate accounts
27 within the fund:

28 (1) The bond retirement account.

29 (2) The administration account.

30 (3) The eligible project account.

31 (f) Money in the fund shall be deposited, paid, and secured in the
32 manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the
33 authority shall invest the money in the fund that is not needed to
34 meet the obligations of the fund in the manner provided by an
35 investment policy established by resolution of the authority.

36 (g) The fund is not part of the state treasury and is considered
37 a trust fund for purposes of IC 4-9.1-1-7. Money may not be

transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(h) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 4. (a) Before any allocations are made from the fund under this chapter, the authority shall determine:

(1) the extent to which outstanding bonds issued by the authority under IC 8-14.5-6 or IC 8-15-2 should be repaid, defeased, or otherwise retired;

(2) the total amount necessary to repay, defease, or otherwise retire the bonds selected by the authority for repayment, defeasance, or retirement; and

(3) the total amount necessary to pay the amounts owed by the authority related to the execution and performance of a public-private agreement under this article, including establishing reserves.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection (c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be

1 allocated to the eligible project account. Money in this account may
 2 be used only for the purposes described in section 3(a)(3) of this
 3 chapter. Within thirty (30) days after a public-private agreement
 4 concerning the Indiana Toll Road has been executed and the
 5 closing for each financing transaction required to provide funding
 6 to carry out the agreement has been conducted, the authority shall
 7 transfer:

8 (1) four hundred million dollars (\$400,000,000) of the money
 9 in the eligible project account to the next generation trust
 10 fund; and

11 (2) the remainder of the money in the eligible project account
 12 to major moves construction account.

13 Sec. 5. (a) The money allocated to the eligible project account
 14 must be used to make distributions to the next generation trust
 15 fund and the major moves construction fund, as provided by
 16 section 4 of this chapter.

17 Chapter 12. Prohibited Local Action

18 Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may
 19 not take any action that would have the effect of impairing a
 20 public-private agreement under this article.

21 Chapter 13. Prohibited Political Contributions

22 Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the
 23 extent they do not conflict with the definitions in this article.

24 Sec. 2. As used in this chapter, "candidate" refers to any of the
 25 following:

- 26 (1) A candidate for a state office.
- 27 (2) A candidate for a legislative office.
- 28 (3) A candidate for a local office.

29 Sec. 3. As used in this chapter, "committee" refers to any of the
 30 following:

- 31 (1) A candidate's committee.
- 32 (2) A regular party committee.
- 33 (3) A committee organized by a legislative caucus of the house
 34 of representatives of the general assembly.
- 35 (4) A committee organized by a legislative caucus of the senate
 36 of the general assembly.

37 Sec. 4. As used in this chapter, "officer" refers only to either of

1 the following:

2 (1) An individual listed as an officer of a corporation in the
3 corporation's most recent annual report.

4 (2) An individual who is a successor to an individual described
5 in subdivision (1).

6 Sec. 5. For purposes of this chapter, a person is considered to
7 have an interest in an operator if the person satisfies any of the
8 following:

9 (1) The person holds any interest in an operator.

10 (2) The person is an officer of an operator.

11 (3) The person is an officer of a person that holds any interest
12 in an operator.

13 (4) The person is a political action committee of an operator.

14 Sec. 6. An operator is considered to have made a contribution
15 if a contribution is made by a person who has an interest in the
16 operator.

17 Sec. 7. An operator or a person who has an interest in an
18 operator may not make a contribution to a candidate or a
19 committee during the following periods:

20 (1) The term during which the operator is a party to a
21 public-private agreement entered into under this article.

22 (2) The three (3) years following the final expiration or
23 termination of the public-private agreement described in
24 subdivision (1).

25 Sec. 8. A person who knowingly or intentionally violates this
26 chapter commits a Class D felony.

27 SECTION 21. IC 8-23-7-22 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) **Subject to**
29 **subsections (b) and (c)**, the department may, after issuing an order and
30 receiving the governor's approval, determine that a state highway should
31 become a tollway. After the order becomes effective, the department
32 shall maintain and operate the tollway and levy and collect tolls as
33 provided in IC 8-15-3. Before issuing an order under this section, the
34 department shall submit to the governor a plan to bring the tollway to
35 the current design standards of the department for new state highways
36 within a specified period. The specified period may not exceed five (5)
37 years.

(b) The department may not issue an order concerning a state highway under subsection (a) unless the general assembly adopts a statute:

(1) finding that the state highway should be converted to a tollway; and

(2) authorizing the conversion of the state highway to a tollway.

(c) Notwithstanding any other law, the route of a tollway established under this section may not terminate along any part of a highway that:

(1) has at least four (4) lanes; and

(2) is located in a township having a population of at least eighty thousand (80,000).

SECTION 22. IC 8-23-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Subject to subsections (c) and (d)**, the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in

1 the certificate is under the jurisdiction and control of the authority.

2 **(c) The department may not issue an order concerning a state**
 3 **highway under subsection (a) unless the general assembly adopts**
 4 **a statute:**

5 **(1) finding that the state highway should be converted to a toll**
 6 **road; and**

7 **(2) authorizing the conversion of the state highway to a toll**
 8 **road.**

9 **(d) Notwithstanding any other law, the route of a toll road**
 10 **established under this section may not terminate along any part of**
 11 **a highway that:**

12 **(1) has at least four (4) lanes; and**

13 **(2) is located in a township having a population of at least**
 14 **eighty thousand (80,000).**

15 SECTION 23. IC 8-23-9-54 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) To provide
 17 funds for carrying out the provisions of this chapter, there is created a
 18 state highway fund from the following sources:

19 (1) All money in the general fund to the credit of the state highway
 20 account.

21 (2) All money that is received from the Department of
 22 Transportation or other federal agency and known as federal aid.

23 (3) All money paid into the state treasury to reimburse the state for
 24 money paid out of the state highway fund.

25 (4) All money provided by Indiana law for the construction,
 26 maintenance, reconstruction, repair, and control of public
 27 highways, as provided under this chapter.

28 (5) All money that on May 22, 1933, was to be paid into the state
 29 highway fund under contemplation of any statute in force as of
 30 May 22, 1933.

31 (6) All money that may at any time be appropriated from the state
 32 treasury.

33 (7) Any part of the state highway fund unexpended at the
 34 expiration of any fiscal year, which shall remain in the fund and be
 35 available for the succeeding years.

36 (8) Any money credited to the state highway fund from the motor
 37 vehicle highway account under IC 8-14-1-3(4).

(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.

(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.

(11) Any money distributed to the state highway fund under IC 8-14-14 or IC 8-15.5.

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

SECTION 24. IC 9-13-2-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. "Automated traffic law enforcement system", for purposes of IC 9-21, has the meaning set forth in IC 9-21-3.5-2.**

SECTION 25. IC 9-21-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.5. Automated Traffic Law Enforcement System

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

Sec. 2. As used in this chapter, "automated traffic law enforcement system" means a device that:

- (1) has one (1) or more motor vehicle sensors; and**
- (2) is capable of producing a photographically recorded image of a motor vehicle, including an image of the vehicle's front or rear license plate, as the vehicle proceeds through a tollgate, toll zone, or other area on a toll road that is marked as required by the department, the authority, or an operator as a place where a person using the toll road must pay a toll or is otherwise subject to a fee for using the toll road.**

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

Sec. 4. As used in this chapter, "operator" has the meaning set forth in IC 8-15.5-2-5.

Sec. 5. As used in this chapter, "owner" means a person in whose name a motor vehicle is registered under:

- (1) IC 9-18;**
- (2) the laws of another state;**

- (3) the laws of a foreign country; or
- (4) the International Registration Plan.

Sec. 6. As used in this chapter, "toll road" has the meaning set forth in IC 8-15-2-4(4).

Sec. 7. The owner of a motor vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility on a toll road shall pay the proper toll.

Sec. 8. The department or the authority may adopt and enforce rules concerning:

- (1) the placement and use of automated traffic law enforcement systems to enforce collection of user fees;
- (2) required notification to owners of toll violations;
- (3) the process for collection and enforcement of unpaid amounts;
- (4) the amount of fines, charges, and assessments for toll violations; and
- (5) other matters relating to automated traffic law enforcement systems that the department or the authority considers appropriate.

Sec. 9. Before enforcing a rule adopted under section 8 of this chapter, the department, the authority, or an operator must install advance warning signs along the tollways, toll roads, or qualifying projects proceeding to the location at which an automated traffic law enforcement system is located.

Sec. 10. (a) In the prosecution of a toll violation, proof that the motor vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, a photograph, an electronic recording, or other appropriate evidence, including evidence obtained by an automated traffic law enforcement system.

(b) In the prosecution of a toll violation:

- (1) it is presumed that any notice of nonpayment was received on the fifth day after the date of mailing; and
- (2) a computer record of the department, the authority, or the operator of the registered owner of the vehicle is prima facie evidence of its contents and that the toll violator was the registered owner of the vehicle at the time of the underlying

1 event of nonpayment.

2 **Sec. 11. (a) For purposes of this section, "transponder" means**
 3 **a device, placed on or within a motor vehicle, that is capable of**
 4 **transmitting information used to assess or collect tolls. A**
 5 **transponder is "insufficiently funded" when there are no**
 6 **remaining funds in the account in connection with which the**
 7 **transponder was issued.**

8 **(b) Any police officer of this state may seize a stolen or**
 9 **insufficiently funded transponder and return it to the department,**
 10 **the authority, or an operator, except that an insufficiently funded**
 11 **transponder may not be seized from the holder of an account**
 12 **sooner than the thirtieth day after the date the department, the**
 13 **authority, or an operator has sent a notice of delinquency to the**
 14 **holder of the account.**

15 **(c) The department or the authority may enter into an**
 16 **agreement with one (1) or more persons to market and sell**
 17 **transponders for use on toll roads.**

18 **(d) The department, the authority, or an operator may charge**
 19 **reasonable fees for initiating, administering, and maintaining**
 20 **electronic toll collection customer accounts.**

21 **(e) Electronic toll collection customer account information,**
 22 **including contact and payment information and trip data, is**
 23 **confidential and not subject to disclosure under IC 5-14-3. A**
 24 **contract for the acquisition, construction, maintenance, or**
 25 **operation of a toll road must ensure the confidentiality of all**
 26 **electronic toll collection customer account information.**

27 **SECTION 26. IC 34-13-3-3, AS AMENDED BY P.L.208-2005,**
 28 **SECTION 14, IS AMENDED TO READ AS FOLLOWS**
 29 **[EFFECTIVE UPON PASSAGE]: Sec. 3. A governmental entity or an**
 30 **employee acting within the scope of the employee's employment is not**
 31 **liable if a loss results from the following:**

- 32 (1) The natural condition of unimproved property.
 33 (2) The condition of a reservoir, dam, canal, conduit, drain, or
 34 similar structure when used by a person for a purpose that is not
 35 foreseeable.
 36 (3) The temporary condition of a public thoroughfare or extreme
 37 sport area that results from weather.

- 1 (4) The condition of an unpaved road, trail, or footpath, the
2 purpose of which is to provide access to a recreation or scenic
3 area.
- 4 (5) The design, construction, control, operation, or normal
5 condition of an extreme sport area, if all entrances to the extreme
6 sport area are marked with:
- 7 (A) a set of rules governing the use of the extreme sport area;
8 (B) a warning concerning the hazards and dangers associated
9 with the use of the extreme sport area; and
10 (C) a statement that the extreme sport area may be used only
11 by persons operating extreme sport equipment.
- 12 This subdivision shall not be construed to relieve a governmental
13 entity from liability for the continuing duty to maintain extreme
14 sports areas in a reasonably safe condition.
- 15 (6) The initiation of a judicial or an administrative proceeding.
- 16 (7) The performance of a discretionary function; however, the
17 provision of medical or optical care as provided in IC 34-6-2-38
18 shall be considered as a ministerial act.
- 19 (8) The adoption and enforcement of or failure to adopt or enforce
20 a law (including rules and regulations), unless the act of
21 enforcement constitutes false arrest or false imprisonment.
- 22 (9) An act or omission performed in good faith and without malice
23 under the apparent authority of a statute which is invalid if the
24 employee would not have been liable had the statute been valid.
- 25 (10) The act or omission of anyone other than the governmental
26 entity or the governmental entity's employee.
- 27 (11) The issuance, denial, suspension, or revocation of, or failure
28 or refusal to issue, deny, suspend, or revoke any permit, license,
29 certificate, approval, order, or similar authorization, where the
30 authority is discretionary under the law.
- 31 (12) Failure to make an inspection, or making an inadequate or
32 negligent inspection, of any property, other than the property of a
33 governmental entity, to determine whether the property complied
34 with or violates any law or contains a hazard to health or safety.
- 35 (13) Entry upon any property where the entry is expressly or
36 impliedly authorized by law.
- 37 (14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73) **or toll road project (as defined in IC 8-15-2-4(4))** if the claimed loss occurs at least twenty (20) years after the public highway **or toll road project** was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to

gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(23) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 27. [EFFECTIVE UPON PASSAGE] Actions taken with respect to a public-private agreement before the effective date of this act that would have been valid under IC 8-15.5, as added by this act, are legalized and validated.

SECTION 28. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "authority" and "user fees" have the meanings set forth in IC 8-15.5-2, as added by this act.

(b) The authority shall adopt a rule under IC 4-22-2-37.1, as amended by this act, fixing user fees, including a schedule of the user fees provided for under a public-private agreement entered into under IC 8-15.5-4, as added by this act, on or before January 1, 2007.

(c) This SECTION expires July 1, 2007.

SECTION 29. [EFFECTIVE JULY 1, 2006] IC 6-3-3-11, as added by this act, applies to taxable years beginning after December 31, 2005, and tolls paid after June 30, 2006.

1 SECTION 30. [EFFECTIVE UPON PASSAGE] **The provisions**
2 **of this act are severable in the manner provided by IC 1-1-1-8(b).**

3 SECTION 31. **An emergency is declared for this act.**
 (Reference is to HB 1008 as reprinted February 1, 2006.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 4.

Meeks

Chairperson